IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl. Rev. Pet.No. 495 of 2007()

CRA.152/2006 of VI ADDL.SESSIONS COURT, ERNAKULAM
CC.1527/2003 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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REVN. PETITIONER: APPELLANT/ACCUSED:

PURUSHOTHAMAN LAL AROORA,
PROPRIETOR, BABA SALES CORPORATION,
KANNANTHODATH LANE, VENUS CHAMBERS,
LINK LAKSHMAN, VALANJAMBALAM, KOCHI.

BY ADV. SRI.C.C.PADMAKUMAR

RESPONDENTS: RESPONDENT/COMPLAINANT:

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1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. M/S. MUTHOOT LEASING AND FINANCE LTD.,
MUTHOOT CHAMBER, OPP: SARITHA THEATRE,
BANERJI ROAD, ERNAKULAM, REPRESENTED BY ITS
POWER OF ATTORNEY HOLDER, K.RAMACHANDRAN.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 495 OF 2007

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Dated this the 7th day of February 2007

O R D E R

The revision petitioner is the accused who stands convicted to undergo simple imprisonment for one month and to pay a compensation of Rs. 21,885 in default to undergo simple imprisonment for one month under section 357(3) Cr.P.C with respect to the offence under section 138 of the Negotiable Instruments Act. The appellate court has confirmed the conviction and sentence. The point raised in the revision petition is that Exts. P1 and P1(a) copies of power of attorney in favour of PW1-branch manager of the company produced are not certified copies and hence PW1 cannot be said to be an authorised person to institute the proceedings. The above contention raised was for the first time in the appeal. The sessions court has considered the same. It was found that PW1 who instituted the proceedings is the branch manager of the company wherein the impugned transaction took place. The Sessions Court rightly found that PW1 is competent to represent the company and hence the fact that the proper power of attorney is not properly produced would make no difference. I find that the above findings of the court below is

perfectly legal. So far as the rest of the findings of the courts below are concerned, the same appears to be based on sound reasoning. Hence I find no reason to reconsider the findings of the courts below.

2. The counsel for the revision petitioner has sought for modification of the sentence and for some time to pay the amount on the ground that the revision petitioner/accused is not in a position right now to raise the amount. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay compensation of Rs. 21,885/- less the amount that he has already deposited, under section 357 (3) Cr.P.C and in default to undergo simple imprisonment for one month. The revision petitioner is granted six months time from today onwards to remit the amount of compensation. The accused shall appear before the court below to receive sentence on **08.08.2007**.

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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